

Attorney Docket No.: RTS-0245  
Inventors: Monia and Cowser  
Serial No.: 09/920,677  
Filing Date: August 1, 2001  
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REMARKS

Claims 1-20 are pending in this application. Claims 3 and 4 have been canceled. Claims 1 and 12 have been amended. No new matter has been added by this amendment. Reconsideration is respectfully requested in view of these amendments and the following remarks.

The claims of the present application have been subjected to a Restriction Requirement under 35 U.S.C. §121 and 37 C.F.R. §1.141 by the Examiner in this case. The Examiner suggests that claims 3 and 4 specifically claim multiple individual antisense sequences each of which are deemed to constitute individual inventions. The Examiner further suggests that the sequences are distinct as each SEQ ID NO. is a unique nucleotide sequence, and each sequence targets different and specific regions of a nucleic acid encoding p70 S6 kinase, and as each sequence is suggested to modulate the expression of the gene to varying degrees. The Examiner suggests that a search of more than one of the antisense sequences claimed in claims 3 and 4 presents an undue burden on the Patent and Trademark Office. The Examiner has required Applicants to elect one sequence. Applicants respectfully traverse this restriction requirement.

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MPEP §803 is quite clear; for a proper restriction requirement, it must be shown (1) that the inventions are independent or distinct AND (2) that there would be a serious burden on the Examiner if the restriction is not required. MPEP 802.01 defines "distinct" to mean that the "two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made there, etc., but are capable of separate manufacture, use, or sale, as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER."

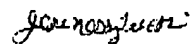
As acknowledged by the Examiner, all of the identified sequences of claims 3 and 4 share the ability to modulate a common structure, namely p70 S6 kinase. Thus, Applicants respectfully disagree with the Examiner's suggestions that recited sequences of claims 3 and 4 are distinct as required by MPEP § 802.01, or would present any undue burden on the Patent Office. Accordingly, reconsideration and withdrawal of the election requirement is respectfully requested.

However, in an earnest effort to be completely responsive, Applicants hereby elect to prosecute SEQ ID NO: 3, with traverse. Claims 1 and 12 have been amended and claims 3-4 have been canceled to clarify that the claimed invention is a compound targeted to a

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single disclosed species of p70 S6 kinase, namely, SEQ ID NO:3. Support for this amendment is found throughout the specification and at page 92, line 16-17. Applicants believe that those amendments satisfy the requirements of this Restriction Requirement. Attached hereto is a marked up version of the changes made to the claims by the current amendment. The attached page is captioned "Version With Markings to Show Changes Made."

Respectfully submitted,



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